

REMARKS

Claims 1, 3-6, 8 and 11-24 are pending in this application. Claims 1, 3-6, 8, 11 and 18-20 have been indicated as allowed, and claims 12-15 and 17 are rejected under 35 U.S.C. §103(a) as being obvious over Iwasaki (JP-02001267200A) in view of Eynon (U.S. Patent No. 6,524,754). (Applicant assumes that claim 19 was included in the above-identified rejection as a typographical error since claim 19 depends on allowed claim 18.) Applicant respectfully traverses this rejection.

Applicant submits that the Office is not meeting the legal requirements for establishing *prima facie* obviousness.

First, the Office's conclusion that "placing an 'aerodynamic fairing' or an air deflector adjacent to a moving device for the purpose of reducing aerodynamic drag on the moving device is well known per se" exhibits a failure to evaluate the level of ordinary skill in the pertinent art as required under *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966). See also, MPEP § 2141. Applicant submits that the Office must establish that one with ordinary skill in the pertinent art (e.g., semiconductor manufacturing) must be familiar with the provision of aerodynamic fairings to reduce drag. In this case, Applicant submits that the Office's conclusion is strained.

Second, "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See also MPEP § 2143.03. In this regard Applicant submits that the Office has failed to provide prior art that shows each and every feature of the claimed invention as required. Applicant restates that the Office's assertion that Eynon includes "a mounting system

for a pellicle having 'an aerodynamic fairing' adjacent the mounting structures" is incorrect. The stated use of the Eynon retainer is to hold the pellicle securely and to ease the removal, cleaning and replacement of the pellicle. (Note Col. 3, lines 48-50 and lines 63-65). In fact, Eynon does not even use the terms "aerodynamic" and "drag." The Eynon retainer actually includes structure that adds to aerodynamic drag. In particular, retainer 40 includes a tab 56 having an undercut (under tab 56 and adjacent frame 42), which receives airflow and causes turbulence that adds to aerodynamic drag. In this regard, Eynon does not disclose or suggest, *inter alia*, a taper to reduce aerodynamic drag. In addition, upper protrusion 54 not meeting pellicle 28 in a co-planar fashion creates turbulence that also increases drag. In view of the foregoing, Applicant submits that the Office's reliance on Eynon to teach an aerodynamic fairing should be reconsidered.

With further regard to the aerodynamic fairing including a portion that is co-planar with the pellicle, the Office admits that Eynon "does not specifically teach" this structure. The Office then concludes: "a change in shape in [sic: is] generally recognized as being within the level of ordinary skill in the art." Applicant submits that the rationale cited by the Office is applicable only where a shape change is considered a matter of insignificant design choice. See MPEP § 2144.04, IV, B. In contrast, the claimed invention's provision of an aerodynamic fairing having a portion co-planar with the pellicle provides a unique solution to a problem, and is not a simple matter of design choice. Accordingly, Applicant submits that the Office's reasoning for addressing this shortcoming of the prior art should be reconsidered.

Applicant also respectfully submits that the Office's assertion that the combination is motivated "for the purpose of reducing the deformation of the pellicle due to the air turbulence exerting to the pellicle when the mask is moving" is unsupported by the prior art of record and

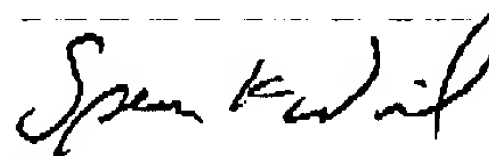
the level of ordinary skill in the art. In this regard, the Office is clearly using the teachings of the claimed invention to formulate a foundation for the rejection with hindsight, which is improper. Sec MPEP § 2141, Basic Considerations Which Apply To Obviousness Rejections. As noted above, none of the prior art of record address aerodynamic drag on a pellicle. Consequently, it is inconceivable how they, or the knowledge of persons of ordinary skill in the art, suggest providing an aerodynamic fairing adjacent a mask to address the drag and turbulence problems.

In view of the foregoing, Applicant submits that the Office has not established *prima facie* obviousness, and respectfully requests withdrawal of the rejection.

Applicant appreciates the indication that claims 1, 3-6, 8, 11 and 18-20 are allowed.

Applicant respectfully submits that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, he is requested to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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